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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,855	08/03/2001	Oliver O. Stanchfield	TPP 31390	6671

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EXAMINER

A, PHI DIEU TRAN

ART UNIT PAPER NUMBER

3637

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/920,855	STANCHFIELD, OLIVER O.	
	Examiner	Art Unit	
	Phi D. A	3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-15, 27, 28, 30, 32-34, 36, 37, 39-45, 47 and 48 is/are pending in the application.
- 4a) Of the above claim(s) 47 and 48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, 14, 15, 27, 28, 30, 32-34, 36, 37 and 39-45 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: figures 1, and figure 2.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

2. Newly submitted claims 47-48 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: figure 2

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 47-48 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

“ a hollow core pad” is indefinite as it is confusing. The claim appears to claim the same pad presented in claim 1. Thus, should the limitation be “ the pad being hollow”?

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 3, 5-11, 14, 27-28, 30, 32-34, 36-37, 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of DeGraan (4655009) and Hickler (2456006).

Margarita shows a molding having a longitudinal axis, the molding comprising a core formed from compressed wood particles, the molding having a generally planar floating floor engaging surface (the surface engaging the floor 3), a wall engaging surface (the surface engaging the wall (2) , the surfaces positioned substantially perpendicular to each other, a surface formed of a décor sheet (col 2 line 5), the wall engaging surface defines apertures (for passing of fasteners 8) therethrough to allow a connector (fastener) to pass through the wall engaging surface therethrough, the connector fastening the molding to the corner when the molding is in the installed position, an intermediate surface (the curving surface at the bottom of the molding) connecting the wall surface and the floor engaging surface, the intermediate surface is angled so that the wall, floating floor, and intermediate surface form a generally triangular shape in a plane transverse to the longitudinal axis, a face on the molding and positioned to face outwardly from the corner, the face comprising at least one curved section (the surface at the top of figure 2), the core being of high density fiberboard , the face comprising at least one flat section.

Margarita does not show a surface formed of a thermosetting resin sheet, a resilient pad coupled to the floating floor engaging surface, the pad formed of a material selected from the group consisting of a natural or synthetic rubber, compressed open cell foamed plastics, closed

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cell foamed plastics, elastomer polymer materials and hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed.

DeGraan shows a pad (19) which is flexible and deformable to enable the sealing of a surface in all different temperatures.

Hickler shows a structure laminated on an outer surface with a thermosetting resin and décor sheet (col 2 lines 21-24, lines 38-43), the décor sheet being paper.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarita's structure to show a surface formed of a thermosetting resin sheet, a resilient pad coupled to the floating floor engaging surface, the pad formed of a material selected from the group consisting of a natural or synthetic rubber, compressed open cell foamed plastics, closed cell foamed plastics, elastomer polymer materials and hollow core polymeric material, the pad resiliently creates a substantially moisture tight seal when installed because having a thermosetting resin sheet with the paper would enable the fast curing and bonding of the paper to the underlying structure as taught by Hickler, and having a pad formed of elastic polymer material would enable the proper sealing of the floor engaging surface to the floor in different temperatures as taught by DeGraan.

Per claims 9, 11, Margarit as modified shows the pad is positioned distal a front edge of the floating floor engaging surface, the front edge of the floating floor engaging surface is distal the corner, the molding having a **generally** uniform cross section at planes transverse to the longitudinal axis, the pad being formed of plastic (isobutylene), the décor sheet comprising at least one of a color and a pattern complementary to an upper surface of the floating floor (inherently so)..

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Per claims 27-28, 30, 32, 34, 41,43 Margarit as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of installing Margarit's modified structure.

Per claim 33, the sealant (isobutylene) is a silicone (silicone → any of various polymer organic silicon compounds obtained as oils, greases or plastics). Margarit as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of installing Margarit's modified structure.

3. Claims 2, 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of DeGraan (4655009) and Hickler (2456006).

Margarita as modified shows all the claimed limitations except for the pad comprising an adhesive.

DeGraan further discloses the pad having adhesive for attaching to the floor.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarita's modified structure to show the pad having adhesive because it would allow for the proper attachment between the molding and the floor as taught by DeGraan.

Per claim 42, Margarita as modified shows all the claimed limitations. The claimed method steps would have been the obvious method steps of forming a moisture tight seal for Margarit's floor and wall.

4. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Margarit (5979132) in view of DeGraan (4655009) and Hickler (2456006).

Margarita as modified shows all the claimed limitations except for the pad including a preformed layer of adhesive, a removable film covering the adhesive.

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DeGraan further the pad including a preformed layer of adhesive, a removable film covering the adhesive (36, 37) for protecting the pad before usage.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Margarita's modified structure to show the pad including a preformed layer of adhesive, a removable film covering the adhesive because it would allow for the proper attachment between the molding and the floor as taught by DeGraan to have preformed adhesive on the pad, and having the protective covering would protect the adhesive until time of usage as taught by DeGraan.

Allowable Subject Matter

5. Claim 13 is are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claim 12 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: prior art does not provide sufficient motivation to modify Margarit's modified structure to show the step of applying glue to the pad immediately before placing the molding in the installed position, and prior art also does not provide sufficient motivation to modify Margarit's modified structure to show the pad being hollow.

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Response to Arguments

8. Applicant's arguments with respect to claims 1-3,5-15,27-28,30,32-34,36-37, 39-45 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different corner molding device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Phi Dieu Tran A

10/30/05